

SENATE MOTION

MADAM PRESIDENT:

I move that House Bill 1386 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 criminal law and procedure and to make an appropriation.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 10-13-3-5, AS AMENDED BY P.L.20-2006,
- 7 SECTION 1, AS AMENDED BY P.L.140-2006, SECTION 4, AND
- 8 AS AMENDED BY P.L.173-2006, SECTION 4, IS CORRECTED
- 9 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 10 2007]: Sec. 5. (a) As used in this chapter, "criminal history data" means
- 11 information collected by criminal justice agencies, the United States
- 12 Department of Justice for the department's information system, or
- 13 individuals.
- 14 (b) The term consists of the following:
- 15 (1) Identifiable descriptions and notations of arrests, indictments,
- 16 informations, or other formal criminal charges.
- 17 (2) Information, *including a photograph*, regarding a sex ~~and~~
- 18 ~~violent~~ offender (as defined in ~~IC 5-2-12-4~~ IC 11-8-8-5) obtained
- 19 through sex ~~and violent~~ offender registration under ~~IC 5-2-12-~~
- 20 ~~IC 11-8-8~~.
- 21 (3) Any disposition, including sentencing, and correctional system
- 22 intake, transfer, and release.
- 23 (4) *A photograph of the person who is the subject of the*
- 24 *information described in subdivisions (1) through (3).*
- 25 (c) **The term includes fingerprint information described in**
- 26 **section 24(f) of this chapter.**
- 27 SECTION 2. IC 10-13-3-24, AS AMENDED BY P.L.20-2006,
- 28 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 29 JULY 1, 2007]: Sec. 24. (a) The department shall act as the official
- 30 state central repository for criminal history data.
- 31 (b) A sheriff, police department, or criminal justice agency in

1 Indiana shall report to the department, on forms provided by the
2 department, all arrests for reportable offenses.

3 (c) Except as provided in subsection (e), at the time a sheriff, police
4 department, or criminal justice agency makes the report described in
5 subsection (b), the sheriff, police department, or criminal justice
6 agency shall transmit a photograph of the person who is the subject of
7 the report to the department.

8 (d) The department may adopt guidelines concerning the:

9 (1) form; and

10 (2) manner of transmission (including electronic transmission);
11 of a photograph described in subsection (c). If the department adopts
12 guidelines under this subsection, the sheriff, police department, or
13 criminal justice agency required to transmit a photograph under
14 subsection (c) shall transmit the photograph in accordance with the
15 guidelines adopted by the department.

16 (e) Notwithstanding subsections (c) and (d):

17 (1) the department is not required to process; and

18 (2) a sheriff, police department, or criminal justice agency is not
19 required to submit;

20 a photograph under this section unless the department has sufficient
21 funding available to process photographs submitted under this section.

22 **(f) The department of correction may report to the department:**

23 **(1) fingerprints recorded by the department of correction in**
24 **any reliable manner, including the use of a digital**
25 **fingerprinting device, when a person convicted of an offense**
26 **is received by the department of correction; and**

27 **(2) an abstract of judgment received by the department of**
28 **correction that relates to the fingerprints described in**
29 **subdivision (1).**

30 SECTION 2. IC 11-8-2-12.4, AS ADDED BY P.L.173-2006,
31 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2007]: Sec. 12.4. The department shall do the following:

33 (1) Maintain the Indiana sex offender registry established under
34 IC 36-2-13-5.5. **The department shall ensure that a sex**
35 **offender's Social Security number remains unavailable to the**
36 **public.**

37 (2) Prescribe and approve a format for sex offender registration as
38 required by IC 11-8-8.

39 (3) Provide:

40 (A) judges;

41 (B) law enforcement officials;

42 (C) prosecuting attorneys;

43 (D) parole officers;

44 (E) probation officers; and

45 (F) community corrections officials;

46 with information and training concerning the requirements of
47 IC 11-8-8 and the use of the Indiana sex offender registry.

(4) Upon request of a neighborhood association:

(A) transmit to the neighborhood association information concerning sex offenders who reside near the location of the neighborhood association; or

(B) provide instructional materials concerning the use of the Indiana sex offender registry to the neighborhood association.

(5) Maintain records on every sex offender who:

(A) is incarcerated;

(B) has relocated out of state; and

(C) is no longer required to register due to the expiration of the sex offender's registration period.

SECTION 3. IC 11-8-8-4, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. As used in this chapter, "register" means to ~~provide report in person to~~ a local law enforcement authority ~~with~~ **and provide** the information required under section 8 of this chapter."

Page 1, line 9, after "gratification" insert **"(including performing sexual conduct in the presence of a minor)"**.

Page 2, between lines 38 and 39, begin a new paragraph and insert:

"(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 4. IC 11-8-8-5.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.2. As used in this chapter, "sex offense" means an offense listed in section 5(a) of this chapter.**

SECTION 5. IC 11-8-8-7, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Subject to section 19 of this chapter, the following persons must register under this chapter:

(1) A sex offender who resides in Indiana. A sex offender resides in Indiana if either of the following applies:

(A) The sex offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex offender who works or carries on a vocation or intends to work or carry on a vocation full time or part time for a period:

(A) exceeding ~~fourteen (14)~~ **seven (7)** consecutive days; or

(B) for a total period exceeding ~~thirty (30)~~ **fourteen (14)** days; during any calendar year in Indiana **regardless of** whether the sex offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational

institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), a sex offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex offender resides. If a sex offender resides in more than one (1) county, the sex offender shall register with the local law enforcement authority in each county in which the sex offender resides. If the sex offender is also required to register under subsection (a)(2) or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex offender described in subsection (a)(2) shall register with the local law enforcement authority in the county where the sex offender is or intends to be employed or carry on a vocation. If a sex offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex offender shall register with the local law enforcement authority in each county. If the sex offender is also required to register under subsection (a)(1) or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex offender described in subsection (a)(3) shall register with the local law enforcement authority in the county where the sex offender is enrolled or intends to be enrolled as a student. If the sex offender is also required to register under subsection (a)(1) or (a)(2), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(f) A sex offender committed to the department shall register with the department before the sex offender is released from incarceration. The department shall forward the sex offender's registration information to the local law enforcement authority of every county in which the sex offender is required to register.

(g) This subsection does not apply to a sex offender who is a sexually violent predator. A sex offender not committed to the department shall register not more than seven (7) days after the sex offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;

- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sex offender is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the sex offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex offender who is a sexually violent predator. A sex offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sexually violent predator is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex offender registers under this section shall make and publish a photograph of the sex offender on the Indiana sex offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex offender registry web site established under IC 36-2-13-5.5.

(j) When a sex offender registers, the local law enforcement authority shall:

(1) immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5; ~~and~~

(2) notify every law enforcement agency having jurisdiction in the county where the sex offender resides; **and**

(3) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS).

~~The local law enforcement authority shall provide the department and a law enforcement agency described in subdivision (2) with the information provided by the sex offender during registration. When a sex offender from a jurisdiction outside Indiana registers a change of address, employment, vocation, or enrollment in Indiana, the local law enforcement authority shall provide the department with the information provided by the sex offender during registration.~~

SECTION 6. IC 11-8-8-8, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The registration required under this chapter must include the following information:

(1) The sex offender's full name, alias, any name by which the sex offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's license number or state identification card number, **vehicle description and vehicle plate number for any vehicle the offender owns or operates on a regular basis**, principal residence address, **other address where the sex offender spends more than seven (7) nights in a fourteen (14) day period**, and mailing address, if different from the sex offender's principal residence address.

(2) A description of the offense for which the sex offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex offender's employers in Indiana, the name and address of each campus or location where the sex offender is enrolled in school in Indiana, and the address where the sex offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex offender.

(5) If the sex offender is a sexually violent predator, that the sex offender is a sexually violent predator.

(6) If the sex offender is required to register for life, that the sex offender is required to register for life.

(7) Any other information required by the department.

SECTION 7. IC 11-8-8-9, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) Not more than seven (7) days before an

Indiana sex offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender was orally informed or, if the sex offender refuses to sign the statement, certify that the sex offender was orally informed of the duty to register.

(2) Deliver a form advising the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender received the written notice or, if the sex offender refuses to sign the statement, certify that the sex offender was given the written notice of the duty to register.

(3) Obtain the address where the sex offender expects to reside after the sex offender's release.

(4) Transmit to the local law enforcement authority in the county where the sex offender expects to reside the sex offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex offender.

(b) Not more than seventy-two (72) hours after a sex offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The sex offender's fingerprints, photograph, and identification factors.

(2) The address where the sex offender expects to reside after the sex offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex offender.

(4) Information regarding the sex offender's past treatment for mental disorders.

(5) Information as to whether the sex offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex offender is placed on probation or in a community corrections program without being confined in a penal facility. The probation office serving the court in which the sex offender is sentenced shall perform the duties required under subsections (a) and (b).

(d) For any sex offender who is not committed to the department, the probation office of the sentencing court shall transmit to the department a copy of the offender's:

(1) sentencing order;

(2) presentence investigation; and

(3) any other information required by the department to make a determination concerning sex offender registration.

SECTION 8. IC 11-8-8-11, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) If a sex offender who is required to register under this chapter changes:

(1) principal residence address; or

(2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex offender stays in Indiana;

the sex offender shall ~~register not more than seventy-two (72) hours after the address change with the local law enforcement authority with whom the sex offender last registered:~~ **report in person to the local law enforcement authority having jurisdiction over the offender's current principal address or location and, if the offender moves to a new county in Indiana, to the local law enforcement authority having jurisdiction over the offender's new principal address or location not more than seventy-two (72) hours after the address change.**

(b) If a sex offender moves to a new county in Indiana, the local law enforcement authority ~~referred to in subsection (a)~~ **where the sex offender's current principal residence address is located** shall inform the local law enforcement authority in the new county in Indiana of the sex offender's residence and forward all relevant registration information concerning the sex offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex offender under section 13 of this chapter not more than seven (7) days after receiving the notice.

(c) If a sex offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex offender's principal place of employment, principal place of vocation, or campus or location where the sex offender is enrolled in school, the sex offender shall ~~register not more than seventy-two (72) hours after the change with the local law enforcement authority with whom the sex offender last registered:~~ **report in person:**

(1) to the local law enforcement authority having jurisdiction over the offender's current principal place of employment, principal place of vocation, or campus or location where the sex offender is enrolled in school; and

(2) if a sex offender changes the sex offender's place of employment, vocation, or enrollment to a new county in Indiana, to the local law enforcement authority having jurisdiction over the offender's new principal place of employment, principal place of vocation, or campus or location where the sex offender is enrolled in school; not more than seventy-two (72) hours after the change.

(d) If a sex offender moves the sex offender's place of employment,

1 vocation, or enrollment to a new county in Indiana, the local law
 2 enforcement authority ~~referred to in subsection (c)~~ **having jurisdiction**
 3 **over the offender's current principal place of employment,**
 4 **principal place of vocation, or campus or location where the sex**
 5 **offender is enrolled in school** shall inform the local law enforcement
 6 authority in the new county of the sex offender's new principal place of
 7 employment, vocation, or enrollment by forwarding relevant
 8 registration information to the local law enforcement authority in the
 9 new county.

10 (e) If a sex offender moves the sex offender's residence, place of
 11 employment, vocation, or enrollment to a new state, the local law
 12 enforcement authority shall inform the state police in the new state of
 13 the sex offender's new place of residence, employment, **vocation**, or
 14 enrollment.

15 (f) A local law enforcement authority shall make registration
 16 information, including information concerning the duty to register and
 17 the penalty for failing to register, available to a sex offender.

18 (g) A local law enforcement authority who is notified of a change
 19 under subsection (a) or (c) shall:

20 (1) immediately update the Indiana sex offender registry web site
 21 established under IC 36-2-13-5.5;

22 (2) **update the National Crime Information Center National**
 23 **Sex Offender Registry data base via the Indiana data and**
 24 **communications system (IDACS); and**

25 (3) **notify the department.**

26 (h) **If a sex offender who is registered with a local law**
 27 **enforcement authority becomes incarcerated, the local law**
 28 **enforcement authority shall transmit a copy of the information**
 29 **provided by the sex offender during registration to the department.**

30 (i) **If a sex offender is no longer required to register due to the**
 31 **expiration of the registration period, the local law enforcement**
 32 **authority shall transmit a copy of the information provided by the**
 33 **sex offender during registration to the department.**

34 SECTION 9. IC 11-8-8-12, AS ADDED BY P.L.173-2006,
 35 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2007]: Sec. 12. (a) As used in this section, "temporary
 37 residence" means a residence:

38 (1) that is established to provide transitional housing for a person
 39 without another residence; and

40 (2) in which a person is not typically permitted to reside for more
 41 than thirty (30) days in a sixty (60) day period.

42 (b) This section applies only to a sex offender who resides in a
 43 temporary residence. In addition to the other requirements of this
 44 chapter, a sex offender who resides in a temporary residence shall
 45 register in person with the local law enforcement authority in which the
 46 temporary residence is located:

47 (1) not more than seventy-two (72) hours after the sex offender

1 moves into the temporary residence; and

2 (2) during the period in which the sex offender resides in a
3 temporary residence, at least once every seven (7) days following
4 the sex offender's initial registration under subdivision (1).

5 **(c) A sex offender who does not have a principal residence or**
6 **temporary residence shall report in person to the local law**
7 **enforcement authority in the county where the sex offender resides**
8 **at least once every seven (7) days to report an address for the**
9 **location where the sex offender will stay during the time in which**
10 **the sex offender lacks a principal address or temporary residence.**

11 ~~(c)~~ **(d)** A sex offender's obligation to register in person once every
12 seven (7) days terminates when the sex offender no longer resides in
13 the temporary residence **or location described in subsection (c).**
14 However, all other requirements imposed on a sex offender by this
15 chapter continue in force, including the requirement that a sex offender
16 register the sex offender's new address with the local law enforcement
17 authority.

18 SECTION 10. IC 11-8-8-13, AS ADDED BY P.L.173-2006,
19 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2007]: Sec. 13. ~~(a)~~ To verify a sex offender's current
21 residence, the local law enforcement authority **having jurisdiction**
22 **over the area of the offender's current principal address or**
23 **location** shall do the following:

24 (1) Mail a ~~reply~~ form **that is approved or prescribed by the**
25 **department** to each sex offender in the county at the sex
26 offender's listed address at least one (1) time per year, beginning
27 seven (7) days after the local law enforcement authority receives
28 a notice under section 11 or 20 of this chapter or the date the sex
29 offender is:

30 (A) released from a penal facility (as defined in
31 IC 35-41-1-21), a secure private facility (as defined in
32 IC 31-9-2-115), or a juvenile detention facility;

33 (B) placed in a community transition program;

34 (C) placed in a community corrections program;

35 (D) placed on parole; or

36 (E) placed on probation;

37 whichever occurs first.

38 (2) Mail a ~~reply~~ form **that is approved or prescribed by the**
39 **department** to each sex offender who is designated a sexually
40 violent predator under IC 35-38-1-7.5 at least once every ninety
41 (90) days, beginning seven (7) days after the local law
42 enforcement authority receives a notice under section 11 or 20 of
43 this chapter or the date the sex offender is:

44 (A) released from a penal facility (as defined in
45 IC 35-41-1-21), a secure private facility (as defined in
46 IC 31-9-2-115), or a juvenile detention facility;

47 (B) placed in a community transition program;

- 1 (C) placed in a community corrections program;
 2 (D) placed on parole; or
 3 (E) placed on probation;
 4 whichever occurs first.
- 5 (3) Personally visit each sex offender in the county at the sex
 6 offender's listed address at least one (1) time per year, beginning
 7 seven (7) days after the local law enforcement authority receives
 8 a notice under section 7 of this chapter or the date the sex
 9 offender is:
- 10 (A) released from a penal facility (as defined in
 11 IC 35-41-1-21), a secure private facility (as defined in
 12 IC 31-9-2-115), or a juvenile detention facility;
 13 (B) placed in a community transition program;
 14 (C) placed in a community corrections program;
 15 (D) placed on parole; or
 16 (E) placed on probation;
 17 whichever occurs first.
- 18 (4) Personally visit each sex offender who is designated a sexually
 19 violent predator under IC 35-38-1-7.5 at least once every ninety
 20 (90) days, beginning seven (7) days after the local law
 21 enforcement authority receives a notice under section 7 of this
 22 chapter or the date the sex offender is:
- 23 (A) released from a penal facility (as defined in
 24 IC 35-41-1-21), a secure private facility (as defined in
 25 IC 31-9-2-115), or a juvenile detention facility;
 26 (B) placed in a community transition program;
 27 (C) placed in a community corrections program;
 28 (D) placed on parole; or
 29 (E) placed on probation;
 30 whichever occurs first.
- 31 (b) If a sex offender fails to return a signed reply form either by mail
 32 or in person, not later than fourteen (14) days after mailing, or appears
 33 not to reside at the listed address, the local law enforcement authority
 34 shall immediately notify the department and the prosecuting attorney.
- 35 SECTION 11. IC 11-8-8-14, AS ADDED BY P.L.173-2006,
 36 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2007]: Sec. 14. **(a) This subsection does not apply to a sex
 38 offender who is a sexually violent predator. In addition to the other
 39 requirements of this chapter, At least once per calendar year, a sex
 40 offender who is required to register under this chapter shall, at least
 41 one (1) time per calendar year:**
- 42 (1) report in person to the local law enforcement authority;
 43 (2) register; and
 44 (3) be photographed by the local law enforcement authority;
 45 in each location where the offender is required to register.
- 46 **(b) This subsection applies to a sex offender who is a sexually
 47 violent predator. In addition to the other requirements of this**

chapter, a sex offender who is a sexually violent predator under IC 35-38-1-7.5 shall:

- (1) report in person to the local law enforcement authority;
- (2) register; and
- (3) be photographed by the local law enforcement authority in each location where the offender is required to register; every ninety (90) days.

(c) Each time a sex offender who claims to be working or attending school registers in person, the sex offender shall provide documentation to the local law enforcement authority providing evidence that the sex offender is still working or attending school at the registered location.

SECTION 12. IC 11-8-8-17, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) A sex offender who knowingly or intentionally:

- (1) fails to register when required to register under this chapter;
- (2) fails to register in every location where the sex offender is required to register under this chapter;
- (3) makes a material misstatement or omission while registering as a sex offender under this chapter; ~~or~~
- (4) fails to register in person ~~and be photographed at least one (1) time per year~~ as required under this chapter; ~~or~~
- (5) **does not reside at the sex offender's registered address or location;**

commits a Class D felony.

~~(b) However,~~ The offense **described in subsection (a)** is a Class C felony if the sex offender has a prior unrelated conviction for an offense:

- (1) under this section; or
- (2) based on the person's failure to comply with any requirement imposed on a sex offender under this chapter.

(c) It is not a defense to a prosecution under this section that the sex offender was unable to pay the sex offender registration fee or the sex offender address change fee described under IC 36-2-13-5.6.

SECTION 13. IC 11-8-8-18, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) A sexually violent predator who will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours shall inform the local law enforcement authority **in the county where the sexually violent predator's principal address is located**, in person, ~~or in writing~~, of the following:

- (1) That the sexually violent predator will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours.
- (2) The location where the sexually violent predator will be

located during the absence from the sexually violent predator's principal residence.

(3) The length of time the sexually violent predator will be absent from the sexually violent predator's principal residence.

(b) A sexually violent predator who will spend more than seventy-two (72) hours in a county in which the sexually violent predator is not required to register shall inform the local law enforcement authority in the county in which the sexually violent predator is not required to register, in person, ~~or in writing~~, of the following:

(1) That the sexually violent predator will spend more than seventy-two (72) hours in the county.

(2) The location where the sexually violent predator will be located while spending time in the county.

(3) The length of time the sexually violent predator will remain in the county.

Upon request of the local law enforcement authority of the county in which the sexually violent predator is not required to register, the sexually violent predator shall provide the local law enforcement authority with any additional information that will assist the local law enforcement authority in determining the sexually violent predator's whereabouts during the sexually violent predator's stay in the county.

(c) A sexually violent predator who knowingly or intentionally violates this section commits failure to notify, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section based on the person's failure to comply with any requirement imposed on a sex offender under this chapter."

Page 3, between lines 31 and 32, begin a new paragraph and insert:

"(f) A person who is required to register as a sex offender in any jurisdiction shall register for the period of time required by the other jurisdiction or the length of time described in this section, whichever is longer.

SECTION 14. IC 11-8-8-20, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) The ~~governor~~ **department** may enter into a compact **or agreement** with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the ~~release, transfer, or~~ change of address, employment, vocation, or enrollment of a sex offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

~~(b) The compact must provide for the designation of a state agency to coordinate the transfer of information:~~

~~(c) (b)~~ If the ~~state agency~~ **department** receives information that a sex offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, **or that a sex offender has been convicted in Indiana but not sentenced to the department**, the ~~state~~

agency department shall inform in writing the local law enforcement authority where the sex offender is required to register in Indiana of: determine:

(1) the sex offender's name, date of relocation, and new address; and

(2) the sex offense or delinquent act committed by the sex offender.

(1) whether the person is defined as a sex offender under IC 11-8-8-5;

(2) whether the person is a sexually violent predator under IC 35-38-1-7.5;

(3) the period of time the person will be required to register as a sex offender in Indiana; and

(4) any other matter required by law to make a registration determination.

(c) After the department has made a determination under subsection (b), the department shall update the sex offender registry web site and transmit the department's finding to the local law enforcement authority having jurisdiction over the county where the sex offender resides, is employed, and attends school. The department shall transmit:

(1) the sex offender's name, date of relocation, new address (if applicable), the offense or delinquent act committed by the sex offender, and any other available descriptive information;

(2) whether the sex offender is a sexually violent predator;

(3) the period of time the sex offender will be required to register in Indiana; and

(4) anything else required by law to make a registration determination.

(d) The state agency shall determine, following a hearing:

(1) whether a person convicted of an offense in another jurisdiction is required to register as a sex offender in Indiana;

(2) whether an out of state sex offender is a sexually violent predator; and

(3) the period in which an out of state sex offender who has moved to Indiana will be required to register as a sex offender in Indiana.

SECTION 15. IC 11-8-8-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) The state sex offender administration fund is established to assist the department in carrying out its duties under IC 11-8-2-12.4 concerning the Indiana sex offender registry. The fund shall be administered by the department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of:

(1) grants;

- (2) donations;**
- (3) appropriations;**
- (4) money from the annual sex offender registration fee (IC 36-2-13-5.6(a)(1)(A)); and**
- (5) money from the sex offender address change fee (IC 36-2-13-5.6(a)(1)(B)).**

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund is continually appropriated to carry out the purposes of the fund.

SECTION 16. IC 11-13-3-4, AS AMENDED BY P.L.60-2006, SECTION 1, AS AMENDED BY P.L.139-2006, SECTION 2, AND AS AMENDED BY P.L.140-2006, SECTION 15, AND P.L.173-2006, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
 - (A) the residence of the parolee prior to the parolee's incarceration; and
 - (B) the parolee's place of employment; and
- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the

1 parolee to:

- 2 (1) periodically undergo a laboratory chemical test (as defined in
3 IC 14-15-8-1) or series of tests to detect and confirm the presence
4 of a controlled substance (as defined in IC 35-48-1-9); and
5 (2) have the results of any test under this subsection reported to
6 the parole board by the laboratory.

7 The parolee is responsible for any charges resulting from a test
8 required under this subsection. However, a person's parole may not be
9 revoked on the basis of the person's inability to pay for a test under this
10 subsection.

11 (g) As a condition of parole, the parole board:

12 (1) may require a parolee who is a sex ~~and violent~~ offender (as
13 defined in ~~IC 5-2-12-4~~ IC 11-8-8-5) to:

14 (A) participate in a treatment program for sex offenders
15 approved by the parole board; and

16 (B) avoid contact with any person who is less than sixteen (16)
17 years of age unless the parolee:

18 (i) receives the parole board's approval; or

19 (ii) successfully completes the treatment program referred to
20 in clause (A); and

21 (2) shall:

22 (A) require a parolee who is ~~an~~ a sex offender (as defined in
23 ~~IC 5-2-12-4~~ IC 11-8-8-5) to register with a *sheriff (or the*
24 *police chief of a consolidated city)* local law enforcement
25 authority under ~~IC 5-2-12-5~~ IC 11-8-8;

26 (B) prohibit the sex offender from residing within one
27 thousand (1,000) feet of school property (as defined in
28 IC 35-41-1-24.7) for the period of parole, *unless the sex*
29 *offender obtains written approval from the parole board; and*

30 (C) prohibit a parolee who is ~~an~~ a sex offender convicted of a
31 sex offense (as defined in IC 35-38-2-2.5) from residing within
32 one (1) mile of the victim of the sex offender's sex offense
33 *unless the sex offender obtains a waiver under IC 35-38-2-2.5;*
34 *and*

35 (D) *prohibit a parolee from owning, operating, managing,*
36 *being employed by, or volunteering at any attraction designed*
37 *to be primarily enjoyed by children less than sixteen (16)*
38 *years of age.*

39 *The parole board may not grant a sexually violent predator (as defined*
40 *in IC 35-38-1-7.5) or a sex offender who is an offender against*
41 **children under IC 35-42-4-11** *a waiver under subdivision (2)(B) or*
42 *(2)(C). If the parole board allows the sex offender to reside within one*
43 *thousand (1,000) feet of school property under subdivision (2)(B), the*
44 *parole board shall notify each school within one thousand (1,000) feet*
45 *of the sex offender's residence of the order.*

46 (h) The address of the victim of a parolee who is ~~an~~ a sex offender
47 convicted of a sex offense (as defined in IC 35-38-2-2.5) is

confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

~~(j)~~ (j) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex offender (as defined in ~~IC 5-2-12-4~~; IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

~~(k)~~ (k) As a condition of parole, the parole board may prohibit, in accordance with ~~IC 35-38-2-2.5~~; IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

SECTION 17. IC 11-13-4.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Except as provided in subsection (b), an Indiana offender on probation or parole who applies to be transferred out of state under the interstate compact for adult supervision shall pay an application fee of seventy-five dollars (\$75). The application fee shall be used to cover the costs of administering the interstate compact for adult offender supervision.

(b) An offender who has been found indigent by a trial court at the time the offender applies to be transferred out of state under the interstate compact for adult supervision may, at the court's discretion, be required to pay a lesser amount of the cost of the application fee under subsection (a).

(c) An Indiana offender who is on probation shall pay the application fee to the county probation department.

(d) An Indiana offender who is on parole shall pay the application fee to the department of correction.

(e) The application fee paid by an Indiana offender who is on probation shall be transferred to the county treasurer. The county treasurer shall deposit fifty percent (50%) of the money collected under this subsection into the county supplemental adult probation services fund and shall transmit the remaining fifty percent (50%) of the money collected under this subsection to the Indiana judicial center for deposit in the general fund, to be used to cover the cost of administering the interstate compact for adult offender supervision.

(f) The executive director of the Indiana judicial center shall submit a proposed budget for expenditure of the money deposited in the general fund under this section to the budget agency in accordance with IC 4-12-1.

(g) The application fee paid by an Indiana offender who is on parole shall be deposited into the general fund to be used to cover the cost of

administering the interstate compact for adult offender supervision.

(h) The commissioner of the department of correction shall submit a proposed budget for expenditure of the money deposited in the general fund under this section to the budget agency in accordance with IC 4-12-1.

(i) The judicial center and the department of correction shall develop a process to ensure that a sex offender who transfers to or out of Indiana under the compact will be registered appropriately.

SECTION 18. IC 34-30-2-149.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 149.5. IC 35-38-1-28(d) (Concerning a clerk, court, law enforcement officer, or prosecuting attorney for an error or omission in the transportation of fingerprints, case history data, or sentencing data.)**

SECTION 19. IC 35-38-1-7.5, AS AMENDED BY P.L.173-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. (a)** As used in this section, "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage in any of the offenses described in IC 11-8-8-5. The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under subsection (g).

(b) A person who:

(1) being at least eighteen (18) years of age, commits an offense described in:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3 as a Class A or Class B felony;

(D) IC 35-42-4-5(a)(1);

(E) IC 35-42-4-5(a)(2);

(F) IC 35-42-4-5(a)(3);

(G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(H) IC 35-42-4-5(b)(2); or

(I) IC 35-42-4-5(b)(3) as a Class A or Class B felony; or

(J) an attempt or conspiracy to commit a crime listed in clauses (A) through (I); or

(K) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (J);

(2) commits an offense described in IC 11-8-8-5 while having a previous unrelated conviction for an offense described in IC 11-8-8-5 for which the person is required to register as an offender under IC 11-8-8;

(3) commits an offense described in IC 11-8-8-5 while having had a previous unrelated adjudication as a delinquent child

1 **for an act that would be an offense described in IC 11-8-8-5 if**
 2 **committed by an adult, if, after considering expert testimony,**
 3 **a court finds by clear and convincing evidence that the person**
 4 **is likely to repeat an act described in this subsection; or**
 5 **(4) commits an offense described in IC 11-8-8-5 while having**
 6 **had a previous unrelated adjudication as a delinquent child**
 7 **for an act that would be an offense described in IC 11-8-8-5 if**
 8 **committed by an adult, if the person was required to register**
 9 **as a sex offender under IC 11-8-8-5(b)(2);**

10 is a sexually violent predator. **Except as provided in subsections (g)**
 11 **or (h), a person is a sexually violent predator by operation of law**
 12 **if an offense committed by the person satisfies the conditions set**
 13 **forth in subdivision (1) or (2), regardless of when the person**
 14 **committed the offense.**

15 (c) This section applies whenever a court sentences a person **or a**
 16 **juvenile court issues a dispositional decree** for a sex offense listed in
 17 IC 11-8-8-5 for which the person is required to register with the local
 18 law enforcement authority under IC 11-8-8.

19 (d) At the sentencing hearing, the court shall ~~determine~~ **indicate on**
 20 **the record** whether the person ~~is~~ **has been convicted of an offense**
 21 **that makes the person** a sexually violent predator under subsection
 22 (b).

23 (e) ~~If the court does not find the~~ **a person to be is not** a sexually
 24 violent predator under subsection (b), ~~the prosecuting attorney may~~
 25 **request the court to conduct a hearing to determine whether the**
 26 **person (including a child adjudicated to be a delinquent child) is a**
 27 **sexually violent predator under subsection (a). If the court grants**
 28 **the motion,** the court shall ~~consult with a~~ **appoint** board of experts
 29 ~~consisting of two (2) board certified~~ psychologists or psychiatrists who
 30 have expertise in criminal behavioral disorders to ~~determine if the~~
 31 ~~person is a sexually violent predator under subsection (a); evaluate the~~
 32 ~~person and testify at the hearing. After conducting the hearing and~~
 33 ~~considering the testimony of the two (2) psychologists or~~
 34 ~~psychiatrists, the court shall determine whether the person is a~~
 35 ~~sexually violent predator under subsection (a). A hearing~~
 36 ~~conducted under this subsection may be combined with the~~
 37 ~~person's sentencing hearing.~~

38 (f) ~~If the court finds that~~ a person is a sexually violent predator:

- 39 (1) the person is required to register with the local law
 40 enforcement authority as provided in IC 11-8-8; and
 41 (2) the court shall send notice ~~of its finding under this subsection~~
 42 to the department of correction.

43 (g) **This subsection does not apply to a person who has two (2)**
 44 **or more unrelated convictions for an offense described in**
 45 **IC 11-8-8-5 for which the person is required to register under**
 46 **IC 11-8-8.** A person who is ~~found by a court to be~~ a sexually violent
 47 predator may petition the court to consider whether the person should

no longer be considered a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

(1) the sentencing court **or juvenile court** makes its ~~finding~~ **determination** under subsection (e); or

(2) a person ~~found to be who is~~ a sexually violent predator under subsection (b) is released from incarceration **or secure detention**.

A person may file a petition under this subsection not more than one

(1) time per year. **A court may dismiss a petition filed under this subsection or conduct a hearing to determine if a person should no longer be considered a sexually violent predator. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychologists, the court shall determine whether the person should no longer be considered a sexually violent predator under subsection (a).** If a court finds that the person should no longer be considered a sexually violent predator, the court shall send notice to the department of correction that the person is no longer considered a sexually violent predator. Notwithstanding any other law, a condition imposed on a person due to the person's status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator.

(h) A person is not a sexually violent predator by operation of law under subsection (b)(1) if all of the following conditions are met:

(1) The victim was not less than twelve (12) years of age at the time the offense was committed.

(2) The person is not more than four (4) years older than the victim.

(3) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(4) The offense committed by the person was not any of the following:

(A) Rape (IC 35-42-4-1).

(B) Criminal deviate conduct (IC 35-42-4-2).

(C) An offense committed by using or threatening the use of deadly force or while armed with a deadly weapon.

(D) An offense that results in serious bodily injury.

(E) An offense that is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

1 (5) The person has not committed another sex offense (as
2 defined in IC 11-8-8-5.2) (including a delinquent act that
3 would be a sex offense if committed by an adult) against any
4 other person.

5 (6) The offense was not committed by a person having a
6 position of authority or substantial influence over the victim.

7 (7) The court finds that the person should not be considered
8 a sexually violent predator.

9 SECTION 20. IC 35-38-1-28 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2007]: Sec. 28. (a) Except as provided in
12 subsection (c), immediately after sentencing a defendant for an
13 offense, the court shall order the defendant to be fingerprinted by
14 an individual qualified to take fingerprints. The fingerprints may
15 be recorded in any reliable manner, including by the use of a
16 digital fingerprinting device.

17 (b) The court shall order a law enforcement officer to provide
18 the fingerprints to the prosecuting attorney and the state police
19 department, in hard copy or in an electronic format approved by
20 the security and privacy council established by IC 10-13-3-34.

21 (c) The court is not required to order the defendant to be
22 fingerprinted if the defendant was previously arrested and
23 processed at the county jail.

24 (d) A clerk, court, law enforcement officer, or prosecuting
25 attorney is immune from civil liability for an error or omission in
26 the transmission of fingerprints, case history data, or sentencing
27 data, unless the error or omission constitutes willful or wanton
28 misconduct or gross negligence.

29 SECTION 21. IC 35-38-1-29 IS ADDED TO THE INDIANA
30 CODE AS A NEW SECTION TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2007]: Sec. 29. (a) This section applies only
32 to a sexually violent predator, including a person who is a sexually
33 violent predator by operation of law for committing an offense
34 under IC 35-38-1-7.5(b).

35 (b) If a court imposes a sentence on a person described in
36 subsection (a) that does not involve a commitment to the
37 department of correction, the court shall order the parole board to
38 place the person on lifetime parole and supervise the person in the
39 same manner that the parole board supervises a sexually violent
40 predator who has been released from imprisonment and placed on
41 lifetime parole under IC 35-50-6-1(e).

42 (c) If a person described in subsection (b) is also required to be
43 supervised by a court, a probation department, a community
44 corrections program, a community transition program, or another
45 similar program upon the person's release from imprisonment, the
46 parole board may:

47 (1) supervise the person while the person is being supervised
48 by the other supervising agency; or

(2) permit the other supervising agency to exercise all or part of the parole board's supervisory responsibility during the period in which the other supervising agency is required to supervise the person;

in accordance with IC 35-50-6-1(g).

SECTION 22. IC 35-38-2-2.2, AS AMENDED BY P.L.173-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.2. As a condition of probation for a sex offender (as defined in IC 11-8-8-5), the court shall:

- (1) require the sex offender to register with the local law enforcement authority under IC 11-8-8; and
- (2) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the sex offender obtains written approval from the court.

If the court allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order. **However, a court may not allow a sex offender who is a sexually violent predator (as defined in IC 35-38-1-7.5) or an offender against children under IC 35-42-4-11 to reside within one thousand (1,000) feet of school property.**

SECTION 23. IC 35-38-2-2.5, AS AMENDED BY P.L.173-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in this section, "offender" means an individual convicted of a sex offense.

(b) As used in this section, "sex offense" means any of the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual battery (IC 35-42-4-8).
- (9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
- (10) Incest (IC 35-46-1-3).

(c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.

(d) An offender:

- (1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:
 - (A) at the time of sentencing if the offender will be placed on

- 1 probation without first being incarcerated; or
- 2 (B) before the offender's release from incarceration if the
- 3 offender will be placed on probation after completing a term
- 4 of incarceration; or
- 5 (2) who will be placed on parole shall provide the parole board
- 6 with the address where the offender intends to reside during the
- 7 period of parole.
- 8 (e) An offender, while on probation or parole, may not establish a
- 9 new residence within one (1) mile of the residence of the victim of the
- 10 offender's sex offense unless the offender first obtains a waiver from
- 11 the:
- 12 (1) court, if the offender is placed on probation; or
- 13 (2) parole board, if the offender is placed on parole;
- 14 for the change of address under subsection (f).
- 15 (f) The court or parole board may waive the requirement set forth in
- 16 subsection (c) only if the court or parole board, at a hearing at which
- 17 the offender is present and of which the prosecuting attorney has been
- 18 notified, determines that:
- 19 (1) the offender has successfully completed a sex offender
- 20 treatment program during the period of probation or parole;
- 21 (2) the offender is in compliance with all terms of the offender's
- 22 probation or parole; and
- 23 (3) good cause exists to allow the offender to reside within one (1)
- 24 mile of the residence of the victim of the offender's sex offense.
- 25 However, the court or parole board may not grant a waiver under this
- 26 subsection if the offender is a sexually violent predator under
- 27 IC 35-38-1-7.5 **or if the offender is an offender against children**
- 28 **under IC 35-42-4-11.**
- 29 (g) If the court or parole board grants a waiver under subsection (f),
- 30 the court or parole board shall state in writing the reasons for granting
- 31 the waiver. The court's written statement of its reasons shall be
- 32 incorporated into the record.
- 33 (h) The address of the victim of the offender's sex offense is
- 34 confidential even if the court or parole board grants a waiver under
- 35 subsection (f).
- 36 SECTION 9. IC 35-41-1-5.5 IS ADDED TO THE INDIANA CODE
- 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 38 1, 2007]: **Sec. 5.5. "Credit restricted felon" means a person who has**
- 39 **been convicted of at least one (1) of the following offenses:**
- 40 **(1) Child molesting involving sexual intercourse or deviate**
- 41 **sexual conduct (IC 35-42-4-3(a)), if:**
- 42 **(A) the offense is committed by a person at least**
- 43 **twenty-one (21) years of age; and**
- 44 **(B) the victim is less than twelve (12) years of age.**
- 45 **(2) Child molesting (IC 35-42-4-3) resulting in serious bodily**
- 46 **injury or death.**
- 47 **(3) Murder (IC 35-42-1-1), if:**

1 **(A) the person killed the victim while committing or**
 2 **attempting to commit child molesting (IC 35-42-4-3);**
 3 **(B) the victim was the victim of a sex crime under**
 4 **IC 35-42-4, for which the person was convicted; or**
 5 **(C) the victim of the murder was listed by the state or**
 6 **known by the person to be a witness against the person in**
 7 **a prosecution for a sex crime under IC 35-42-4, and the**
 8 **person committed the murder with the intent to prevent**
 9 **the person from testifying."**

10 Page 5, after line 42, begin a new paragraph and insert:

11 "SECTION 25. IC 35-42-4-9 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A person at least
 13 eighteen (18) years of age who, with a child at least fourteen (14) years
 14 of age but less than sixteen (16) years of age, performs or submits to
 15 sexual intercourse or deviate sexual conduct commits sexual
 16 misconduct with a minor, a Class C felony. However, the offense is:

17 (1) a Class B felony if it is committed by a person at least
 18 twenty-one (21) years of age; and

19 (2) a Class A felony if it is committed by using or threatening the
 20 use of deadly force, if it is committed while armed with a deadly
 21 weapon, if it results in serious bodily injury, or if the commission
 22 of the offense is facilitated by furnishing the victim, without the
 23 victim's knowledge, with a drug (as defined in IC 16-42-19-2(1))
 24 or a controlled substance (as defined in IC 35-48-1-9) or knowing
 25 that the victim was furnished with the drug or controlled
 26 substance without the victim's knowledge.

27 (b) A person at least eighteen (18) years of age who, with a child at
 28 least fourteen (14) years of age but less than sixteen (16) years of age,
 29 performs or submits to any fondling or touching, of either the child or
 30 the older person, with intent to arouse or to satisfy the sexual desires of
 31 either the child or the older person, commits sexual misconduct with
 32 a minor, a Class D felony. However, the offense is:

33 (1) a Class C felony if it is committed by a person at least
 34 twenty-one (21) years of age; and

35 (2) a Class B felony if it is committed by using or threatening the
 36 use of deadly force, while armed with a deadly weapon, or if the
 37 commission of the offense is facilitated by furnishing the victim,
 38 without the victim's knowledge, with a drug (as defined in
 39 IC 16-42-19-2(1)) or a controlled substance (as defined in
 40 IC 35-48-1-9) or knowing that the victim was furnished with the
 41 drug or controlled substance without the victim's knowledge.

42 (c) It is a defense that the accused person reasonably believed that
 43 the child was at least sixteen (16) years of age at the time of the
 44 conduct. However, this subsection does not apply to an offense
 45 described in subsection (a)(2) or (b)(2).

46 (d) It is a defense that the child is or has ever been married.
 47 However, this subsection does not apply to an offense described in

subsection (a)(2) or (b)(2).

(e) It is a defense to a prosecution under this section if all the following apply:

(1) The person is not more than four (4) years older than the victim.

(2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(3) The crime:

(A) was not committed by a person who is at least twenty-one (21) years of age;

(B) was not committed by using or threatening the use of deadly force;

(C) was not committed while armed with a deadly weapon;

(D) did not result in serious bodily injury;

(E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(F) was not committed by a person having a position of authority or substantial influence over the victim.

(4) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.

SECTION 24. IC 35-42-4-10, AS ADDED BY P.L.6-2006, SECTION 3, AS ADDED BY P.L.140-2006, SECTION 31, AND AS ADDED BY P.L.173-2006, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:
Sec. 10. (a) As used in this section, "offender against children" means a person who is an offender against children under IC 35-42-4-11.

~~(a)~~ (b) As used in this section, "sexually violent predator" ~~has the meaning set forth in~~ means a person who is a sexually violent predator under IC 35-38-1-7.5.

~~(b)~~ (c) A sexually violent predator or an offender against children who knowingly or intentionally works for compensation or as a volunteer:

(1) on school property;

(2) at a youth program center; or

(3) at a public park;

commits unlawful employment near children by a sexual predator, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction based on the person's failure to comply

1 with any requirement imposed on an offender under ~~this chapter.~~
 2 **IC 11-8-8."**

3 Page 6, line 3, after "section," insert **"and except as provided in**
 4 **subsection (d),"**

5 Page 6, line 14, after "age" insert **"and the person is not the child's**
 6 **parent or guardian"**.

7 Page 6, between lines 18 and 19, begin a new line blocked left and
 8 insert:

9 **"A person is an offender against children by operation of law if the**
 10 **person meets the conditions described in subdivision (1) or (2), no**
 11 **matter when the person committed the offense."**

12 Page 6, line 19, strike "two" and insert **"three"**.

13 Page 6, line 20, strike "(2)" and insert **"(3)"**.

14 Page 6, line 20, after "residence" insert **", or, if the person does not**
 15 **reside in a residence, in a particular location,"**

16 Page 6, between lines 28 and 29, begin a new paragraph and insert:

17 **"(d) This subsection does not apply to a person who has two (2)**
 18 **or more unrelated convictions for an offense described in**
 19 **subsection (a). A person who is an offender against children may**
 20 **petition the court to consider whether the person should no longer**
 21 **be considered an offender against children. The person may file a**
 22 **petition under this subsection not earlier than ten (10) years after**
 23 **the person is released from incarceration, probation, or parole,**
 24 **whichever occurs last. A person may file a petition under this**
 25 **subsection not more than one (1) time per year. A court may**
 26 **dismiss a petition filed under this subsection or conduct a hearing**
 27 **to determine if a person should no longer be considered an**
 28 **offender against children. If the court conducts a hearing, the court**
 29 **shall appoint two (2) psychologists or psychiatrists who have**
 30 **expertise in criminal behavioral disorders to evaluate the person**
 31 **and testify at the hearing. After conducting the hearing and**
 32 **considering the testimony of the two (2) psychologists or**
 33 **psychiatrists, the court shall determine whether the person should**
 34 **no longer be considered an offender against children. If a court**
 35 **finds that the person should no longer be considered an offender**
 36 **against children, the court shall send notice to the department of**
 37 **correction that the person is no longer considered an offender**
 38 **against children.**

39 SECTION 25. IC 35-50-2-2, AS AMENDED BY P.L.151-2006,
 40 SECTION 28, AS AMENDED BY P.L.140-2006, SECTION 36, AND
 41 AS AMENDED BY P.L.173-2006, SECTION 36, IS CORRECTED
 42 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 43 2007]: Sec. 2. (a) The court may suspend any part of a sentence for a
 44 felony, except as provided in this section or in section 2.1 of this
 45 chapter.

46 (b) With respect to the following crimes listed in this subsection, the
 47 court may suspend only that part of the sentence that is in excess of the

1 minimum sentence, unless the court has approved placement of the
 2 offender in a forensic diversion program under IC 11-12-3.7:

3 (1) The crime committed was a Class A or Class B felony and the
 4 person has a prior unrelated felony conviction.

5 (2) The crime committed was a Class C felony and less than seven
 6 (7) years have elapsed between the date the person was
 7 discharged from probation, imprisonment, or parole, whichever
 8 is later, for a prior unrelated felony conviction and the date the
 9 person committed the Class C felony for which the person is
 10 being sentenced.

11 (3) The crime committed was a Class D felony and less than three
 12 (3) years have elapsed between the date the person was
 13 discharged from probation, imprisonment, or parole, whichever
 14 is later, for a prior unrelated felony conviction and the date the
 15 person committed the Class D felony for which the person is
 16 being sentenced. However, the court may suspend the minimum
 17 sentence for the crime only if the court orders home detention
 18 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
 19 sentence specified for the crime under this chapter.

20 (4) The felony committed was:

21 (A) murder (IC 35-42-1-1);

22 (B) battery (IC 35-42-2-1) with a deadly weapon or battery
 23 causing death;

24 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;

25 (D) kidnapping (IC 35-42-3-2);

26 (E) confinement (IC 35-42-3-3) with a deadly weapon;

27 (F) rape (IC 35-42-4-1) as a Class A felony;

28 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
 29 felony;

30 (H) child molesting (IC 35-42-4-3) as a Class A or Class B
 31 felony, **unless:**

32 **(i) the felony committed was child molesting as a Class B**
 33 **felony;**

34 **(ii) the victim was not less than twelve (12) years old at**
 35 **the time the offense was committed;**

36 **(iii) the person is not more than four (4) years older than**
 37 **the victim;**

38 **(iv) the relationship between the person and the victim**
 39 **was a dating relationship or an ongoing personal**
 40 **relationship (not including a family relationship);**

41 **(v) was not committed by a person having a position of**
 42 **authority or substantial influence over the victim; and**

43 **(vi) the person has not committed another sex offense (as**
 44 **defined in IC 11-8-8-5.2) (including a delinquent act that**
 45 **would be a sex offense if committed by an adult) against**
 46 **any other person;**

47 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or

- 1 with a deadly weapon;
- 2 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
- 3 injury;
- 4 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
- 5 or with a deadly weapon;
- 6 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
- 7 weapon;
- 8 (M) escape (IC 35-44-3-5) with a deadly weapon;
- 9 (N) rioting (IC 35-45-1-2) with a deadly weapon;
- 10 (O) dealing in cocaine *or* a narcotic drug ~~or methamphetamine~~
- 11 (IC 35-48-4-1) if the court finds the person possessed a firearm
- 12 (as defined in IC 35-47-1-5) at the time of the offense, or the
- 13 person delivered or intended to deliver to a person under
- 14 eighteen (18) years of age at least three (3) years junior to the
- 15 person and was on a school bus or within one thousand (1,000)
- 16 feet of:
- 17 (i) school property;
- 18 (ii) a public park;
- 19 (iii) a family housing complex; or
- 20 (iv) a youth program center;
- 21 *(P) dealing in methamphetamine (IC 35-48-4-1.1) if the court*
- 22 *finds the person possessed a firearm (as defined in*
- 23 *IC 35-47-1-5) at the time of the offense, or the person*
- 24 *delivered or intended to deliver the methamphetamine pure or*
- 25 *adulterated to a person under eighteen (18) years of age at*
- 26 *least three (3) years junior to the person and was on a school*
- 27 *bus or within one thousand (1,000) feet of:*
- 28 *(i) school property;*
- 29 *(ii) a public park;*
- 30 *(iii) a family housing complex; or*
- 31 *(iv) a youth program center;*
- 32 ~~(P)~~ (Q) dealing in a schedule I, II, or III controlled substance
- 33 (IC 35-48-4-2) if the court finds the person possessed a firearm
- 34 (as defined in IC 35-47-1-5) at the time of the offense, or the
- 35 person delivered or intended to deliver to a person under
- 36 eighteen (18) years of age at least three (3) years junior to the
- 37 person and was on a school bus or within one thousand (1,000)
- 38 feet of:
- 39 (i) school property;
- 40 (ii) a public park;
- 41 (iii) a family housing complex; or
- 42 (iv) a youth program center;
- 43 ~~(Q)~~ (R) an offense under IC 9-30-5 (operating a vehicle while
- 44 intoxicated) and the person who committed the offense has
- 45 accumulated at least two (2) prior unrelated convictions under
- 46 IC 9-30-5;
- 47 ~~(R)~~ (S) an offense under IC 9-30-5-5(b) (operating a vehicle

1 while intoxicated causing death); or

2 ~~(S)~~ (T) aggravated battery (IC 35-42-2-1.5).

3 (c) Except as provided in subsection (e), whenever the court
4 suspends a sentence for a felony, it shall place the person on probation
5 under IC 35-38-2 for a fixed period to end not later than the date that
6 the maximum sentence that may be imposed for the felony will expire.

7 (d) The minimum sentence for a person convicted of voluntary
8 manslaughter may not be suspended unless the court finds at the
9 sentencing hearing that the crime was not committed by means of a
10 deadly weapon.

11 (e) Whenever the court suspends that part of ~~a~~ a sex offender's (as
12 defined in ~~IC 5-2-12-4~~ IC 11-8-8-5) sentence that is suspendible under
13 subsection (b), the court shall place the sex offender on probation under
14 IC 35-38-2 for not more than ten (10) years.

15 (f) An additional term of imprisonment imposed under
16 IC 35-50-2-11 may not be suspended.

17 (g) A term of imprisonment imposed under IC 35-47-10-6 or
18 IC 35-47-10-7 may not be suspended if the commission of the offense
19 was knowing or intentional.

20 (h) A term of imprisonment imposed for an offense under
21 IC 35-48-4-6(b)(1)(B) or IC 35-48-4-6.1(b)(1)(B) may not be
22 suspended.

23 SECTION 26. IC 35-50-6-1, AS AMENDED BY P.L.139-2006,
24 SECTION 6, AS AMENDED BY P.L.140-2006, SECTION 38, AND
25 AS AMENDED BY P.L.173-2006, SECTION 38, IS CORRECTED
26 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
27 2007]: Sec. 1. (a) Except as provided in subsection (d) or (e), when a
28 person imprisoned for a felony completes the person's fixed term of
29 imprisonment, less the credit time the person has earned with respect
30 to that term, the person shall be:

31 (1) released on parole for not more than twenty-four (24) months,
32 as determined by the parole board;

33 (2) discharged upon a finding by the committing court that the
34 person was assigned to a community transition program and may
35 be discharged without the requirement of parole; or

36 (3) released to the committing court if the sentence included a
37 period of probation.

38 (b) This subsection does not apply to a person described in
39 subsection (d), (e), or (f). A person released on parole remains on
40 parole from the date of release until the person's fixed term expires,
41 unless the person's parole is revoked or the person is discharged from
42 that term by the parole board. In any event, if the person's parole is not
43 revoked, the parole board shall discharge the person after the period set
44 under subsection (a) or the expiration of the person's fixed term,
45 whichever is shorter.

46 (c) A person whose parole is revoked shall be imprisoned for all or
47 part of the remainder of the person's fixed term. However, the person

1 shall again be released on parole when the person completes that
 2 remainder, less the credit time the person has earned since the
 3 revocation. The parole board may reinstate the person on parole at any
 4 time after the revocation.

5 (d) This subsection does not apply to a person who is a sexually
 6 violent predator under IC 35-38-1-7.5. When a sex offender (as defined
 7 in ~~IC 5-2-12-4~~ IC 11-8-8-5) completes the sex offender's fixed term of
 8 imprisonment, less credit time earned with respect to that term, the sex
 9 offender shall be placed on parole for not more than ten (10) years.

10 (e) This subsection applies to a person who is a sexually violent
 11 predator under IC 35-38-1-7.5. When a sexually violent predator
 12 completes the person's fixed term of imprisonment, less credit time
 13 earned with respect to that term, the person shall be placed on parole
 14 for the remainder of the person's life.

15 (f) This subsection applies to a parolee in another jurisdiction who
 16 is a sexually violent predator under IC 35-38-1-7.5 and whose parole
 17 supervision is transferred to Indiana from another jurisdiction. In
 18 accordance with IC 11-13-4-1(2) (Interstate Compact for Out-of-State
 19 Probationers and Parolees) and rules adopted under Article VII (d)(8)
 20 of the Interstate Compact for Adult Offender Supervision (IC
 21 11-13-4.5), a parolee who is a sexually violent predator and whose
 22 parole supervision is transferred to Indiana is subject to the same
 23 conditions of parole as a sexually violent predator convicted in Indiana,
 24 including:

- 25 (1) lifetime parole (as described in subsection (e)); and
- 26 (2) the requirement that the person wear a monitoring device (as
- 27 described in IC 35-38-2.5-3) that can transmit information
- 28 twenty-four (24) hours each day regarding a person's precise
- 29 location, if applicable.

30 (g) If a person being supervised on lifetime parole as described in
 31 subsection (e) is also required to be supervised by a court, a probation
 32 department, a community corrections program, a community transition
 33 program, or another similar program upon the person's release from
 34 imprisonment, the parole board may:

- 35 (1) supervise the person while the person is being supervised by
- 36 the other supervising agency; or
- 37 (2) permit the other supervising agency to exercise all or part of
- 38 the parole board's supervisory responsibility during the period in
- 39 which the other supervising agency is required to supervise the
- 40 person, if supervision by the other supervising agency will be, in
- 41 the opinion of the parole board:
- 42 (A) at least as stringent; and
- 43 (B) at least as effective;
- 44 as supervision by the parole board.

45 (h) The parole board is not required to supervise a person on
 46 lifetime parole during any period in which the person is imprisoned.
 47 However, upon the person's release from imprisonment, the parole

board shall recommence its supervision of a person on lifetime parole.

(i) **If a court orders the parole board to place a sexually violent predator whose sentence does not include a commitment to the department of correction on lifetime parole under IC 35-38-1-29, the parole board shall place the sexually violent predator on lifetime parole and supervise the person in the same manner that the parole board supervises a sexually violent predator on lifetime parole whose sentence includes a commitment to the department of correction.**

SECTION 27. IC 35-50-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A person assigned to Class I earns one (1) day of credit time for each day ~~he~~ **the person** is imprisoned for a crime or confined awaiting trial or sentencing.

(b) A person assigned to Class II earns one (1) day of credit time for every two (2) days ~~he~~ **the person** is imprisoned for a crime or confined awaiting trial or sentencing.

(c) A person assigned to Class III earns no credit time.

(d) A person assigned to Class IV earns one (1) day of credit for every six (6) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

SECTION 28. IC 35-50-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A person **who is not a credit restricted felon and who is** imprisoned for a crime or imprisoned awaiting trial or sentencing is initially assigned to Class I.

(b) A person who is a credit restricted felon and who is imprisoned for a crime or imprisoned awaiting trial or sentencing is initially assigned to Class IV. A credit restricted felon may not be assigned to Class I or Class II.

~~(b)~~ (c) A person **who is not assigned to Class IV** may be reassigned to Class II or Class III if ~~he~~ **the person** violates any of the following:

(1) A rule of the department of correction.

(2) A rule of the penal facility in which ~~he~~ **the person** is imprisoned.

(3) A rule or condition of a community transition program.

However, a violation of a condition of parole or probation may not be the basis for reassignment. Before a person may be reassigned to a lower credit time class, ~~he~~ **the person** must be granted a hearing to determine ~~his~~ **the person's** guilt or innocence and, if found guilty, whether reassignment is an appropriate disciplinary action for the violation. The person may waive ~~his~~ **the** right to the hearing.

(d) A person who is assigned to Class IV may be reassigned to Class III if the person violates any of the following:

(1) A rule of the department of correction.

(2) A rule of the penal facility in which the person is imprisoned.

(3) A rule or condition of a community transition program.

1 **However, a violation of a condition of parole or probation may not**
 2 **be the basis for reassignment. Before a person may be reassigned**
 3 **to Class III, the person must be granted a hearing to determine the**
 4 **person's guilt or innocence and, if found guilty, whether**
 5 **reassignment is an appropriate disciplinary action for the**
 6 **violation. The person may waive the right to the hearing.**

7 ~~(c)~~ **(e)** In connection with the hearing granted under subsection ~~(b)~~;
 8 **(c) or (d)**, the person is entitled to:

- 9 (1) have not less than twenty-four (24) hours advance written
- 10 notice of the date, time, and place of the hearing, and of the
- 11 alleged misconduct and the rule the misconduct is alleged to have
- 12 violated;
- 13 (2) have reasonable time to prepare for the hearing;
- 14 (3) have an impartial decisionmaker;
- 15 (4) appear and speak in ~~his~~ **the person's** own behalf;
- 16 (5) call witnesses and present evidence;
- 17 (6) confront and cross-examine each witness, unless the hearing
- 18 authority finds that to do so would subject a witness to a
- 19 substantial risk of harm;
- 20 (7) have the assistance of a lay advocate (the department may
- 21 require that the advocate be an employee of, or a fellow prisoner
- 22 in, the same facility or program);
- 23 (8) have a written statement of the findings of fact, the evidence
- 24 relied upon, and the reasons for the action taken;
- 25 (9) have immunity if ~~his~~ **the person's** testimony or any evidence
- 26 derived from ~~his~~ **the person's** testimony is used in any criminal
- 27 proceedings; and
- 28 (10) have ~~his~~ **the person's** record expunged of any reference to
- 29 the charge if ~~he~~ **the person** is found not guilty or if a finding of
- 30 guilt is later overturned.

31 Any finding of guilt must be supported by a preponderance of the
 32 evidence presented at the hearing.

33 ~~(d)~~ **(f)** A person may be reassigned from Class III to Class I, ~~or~~ Class
 34 II, **or Class IV**, or from Class II to Class I. A person's assignment to
 35 Class III or Class II shall be reviewed at least once every six (6) months
 36 to determine if ~~he~~ **the person** should be reassigned to a higher credit
 37 time class. **A credit restricted felon may not be reassigned to Class**
 38 **I or Class II.**

39 SECTION 29. IC 35-50-6-5, AS AMENDED BY P.L.173-2006,
 40 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2007]: Sec. 5. (a) A person may, with respect to the same
 42 transaction, be deprived of any part of the credit time the person has
 43 earned for any of the following:

- 44 (1) A violation of one (1) or more rules of the department of
- 45 correction.
- 46 (2) If the person is not committed to the department, a violation
- 47 of one (1) or more rules of the penal facility in which the person

1 is imprisoned.

2 (3) A violation of one (1) or more rules or conditions of a
3 community transition program.

4 (4) If a court determines that a civil claim brought by the person
5 in a state or an administrative court is frivolous, unreasonable, or
6 groundless.

7 (5) If the person is a sex offender (as defined in IC 11-8-8-5) and
8 refuses to register before being released from the department as
9 required under IC 11-8-8-7.

10 (6) If the person is a sex offender (as defined in IC 11-8-8-5) and
11 refuses to participate in a sex offender treatment program
12 specifically offered to the sex offender by the department of
13 correction while the person is serving a period of incarceration
14 with the department of correction.

15 However, the violation of a condition of parole or probation may not be
16 the basis for deprivation. Whenever a person is deprived of credit time,
17 ~~he the person~~ may also be reassigned to Class II **(if the person is not**
18 **a credit restricted felon)** or Class III.

19 (b) Before a person may be deprived of earned credit time, the
20 person must be granted a hearing to determine the person's guilt or
21 innocence and, if found guilty, whether deprivation of earned credit
22 time is an appropriate disciplinary action for the violation. In
23 connection with the hearing, the person is entitled to the procedural
24 safeguards listed in ~~section 4(c)~~ **section 4(e)** of this chapter. The person
25 may waive the person's right to the hearing.

26 (c) Any part of the credit time of which a person is deprived under
27 this section may be restored.

28 SECTION 30. IC 36-2-13-5.5, AS AMENDED BY P.L.173-2006,
29 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2007]: Sec. 5.5. (a) The sheriffs shall jointly establish and
31 maintain an Indiana sex offender web site, known as the Indiana sex
32 offender registry, to inform the general public about the identity,
33 location, and appearance of every sex offender residing within Indiana.
34 The web site must provide information regarding each sex offender,
35 organized by county of residence. The web site shall be updated at least
36 daily.

37 (b) The Indiana sex offender web site must include the following
38 information:

39 (1) A recent photograph of every sex offender who has registered
40 with a sheriff after the effective date of this chapter.

41 (2) The home address of every sex offender.

42 (3) The information required under IC 11-8-8-8.

43 (c) Every time a sex offender registers, but at least once per year, the
44 sheriff shall:

45 (1) photograph the sex offender; **and**

46 (2) **determine whether the sex offender's fingerprints are on**
47 **file:**

1 (A) in Indiana; or

2 (B) with the Federal Bureau of Investigation.

3 **If it appears that the sex offender's fingerprints are not on file as**
 4 **described in subdivision (2), the sheriff shall fingerprint the sex**
 5 **offender and transmit a copy of the fingerprints to the state police**
 6 **department.** The sheriff shall place ~~this~~ the photograph described in
 7 **subdivision (1)** on the Indiana sex offender web site.

8 (d) The photograph of a sex offender described in subsection (c)
 9 must meet the following requirements:

10 (1) The photograph must be full face, front view, with a plain
 11 white or off-white background.

12 (2) The image of the offender's face, measured from the bottom
 13 of the chin to the top of the head, must fill at least seventy-five
 14 percent (75%) of the photograph.

15 (3) The photograph must be in color.

16 (4) The photograph must show the offender dressed in normal
 17 street attire, without a hat or headgear that obscures the hair or
 18 hairline.

19 (5) If the offender normally and consistently wears prescription
 20 glasses, a hearing device, wig, or a similar article, the photograph
 21 must show the offender wearing those items. A photograph may
 22 not include dark glasses or nonprescription glasses with tinted
 23 lenses unless the offender can provide a medical certificate
 24 demonstrating that tinted lenses are required for medical reasons.

25 (6) The photograph must have sufficient resolution to permit the
 26 offender to be easily identified by a person accessing the Indiana
 27 sex offender web site.

28 (e) The Indiana sex offender web site may be funded from:

29 (1) the jail commissary fund (IC 36-8-10-21);

30 (2) a grant from the criminal justice institute; and

31 (3) any other source, subject to the approval of the county fiscal
 32 body.

33 SECTION 31. IC 36-2-13-5.6 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2007]: **Sec. 5.6. (a) The legislative body of a**
 36 **county may adopt an ordinance:**

37 **(1) requiring the local law enforcement authority (as defined**
 38 **in IC 11-8-8-2) to collect:**

39 **(A) an annual sex offender registration fee; and**

40 **(B) a sex offender address change fee; and**

41 **(2) establishing a county sex offender administration fund to**
 42 **fund the administration of the sex offender registration**
 43 **system.**

44 **(b) If an ordinance is adopted under subsection (a), the**
 45 **legislative body of the county shall establish the amount of the**
 46 **annual sex offender registration fee. However, the annual sex**
 47 **offender registration fee may not exceed fifty dollars (\$50).**

1 (c) If an ordinance is adopted under subsection (a), the
 2 legislative body of the county shall establish the amount of the sex
 3 offender address change fee. However, a sex offender address
 4 change fee may not exceed five dollars (\$5) per address change.

5 (d) The legislative body of the county shall determine the
 6 manner in which the local law enforcement authority shall collect
 7 the annual sex offender registration fee and the sex offender
 8 address change fee. However, the annual sex offender registration
 9 fee may be collected only one (1) time per year. The sex offender
 10 address change fee may be collected each time a sex offender
 11 registers an address change with the local law enforcement
 12 authority.

13 (e) The local law enforcement authority shall transfer fees
 14 collected under this section to the county auditor of the county in
 15 which the local law enforcement authority exercises jurisdiction.

16 (f) The county auditor shall monthly:

17 (1) deposit ninety percent (90%) of any fees collected under
 18 this section in the county sex offender administration fund
 19 established under subsection (a); and

20 (2) transfer ten percent (10%) of any fees collected under this
 21 section to the treasurer of state for deposit in the state sex
 22 offender administration fund under IC 11-8-8-21.

23 (g) A county fiscal body may appropriate money from the
 24 county sex offender administration fund to an agency or
 25 organization involved in the administration of the sex offender
 26 registry to defray the expense of administering or ensuring
 27 compliance with the laws concerning the Indiana sex offender
 28 registry."

29 Page 6, line 29, after "2007]" insert "(a) IC 35-38-1-29, as added
 30 by this act, and IC 11-8-8-17, IC 11-8-8-18,".

31 Page 6, line 29, after "35-42-4-6" insert ", IC 35-42-4-9,
 32 IC 35-42-4-10,".

33 Page 6, line 30, after "IC 35-42-4-11," insert "and IC 35-50-6-1(i),".

34 Page 6, line 30, delete "both" and insert "all".

35 Page 6, after line 31, begin a new paragraph and insert:

- 1 **"(b) IC 35-41-1-5.5, as added by this act, and IC 35-50-6-3,**
2 **IC 35-50-6-4, and IC 35-50-6-5, all as amended by this act, apply**
3 **only to persons convicted after June 30, 2007.**
4 **SECTION 34. An emergency is declared for this act."**
5 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1386 as printed March 13, 2007.)

Senator BRAY